

McKENNA S.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

X

UNILEVER SUPPLY CHAIN, INC.,

Civil Action No. 09-CV-07601
(LMM)

Plaintiff

-against-

APOLLO HEALTH AND BEAUTY
CARE CORPORATION,
APOLLO HEALTH AND BEAUTY CARE
APOLLO HEALTH CORP. AND
APOLLO BEAUTY CORP.STIPULATION DISMISSING
COUNTERCLAIM REGARDING
'141 DESIGN PATENT

Defendants

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 3/10/2011

APOLLO HEALTH AND BEAUTY CARE.,

Counter-Claimant,

-against-

UNILEVER SUPPLY CHAIN, INC.

Counter-Defendant.

X

WHEREAS, on September 1, 2009, Plaintiff Unilever Supply Chain, Inc. ("Unilever") commenced the above-captioned action;

WHEREAS, on October 20, 2009, Unilever filed an Amended Complaint ("Amended Complaint");

WHEREAS, on March 15, 2010 Apollo Health and Beauty Care, consisting of Apollo Health Corp. and Apollo Beauty Corp. (collectively "Apollo"), filed its Answer to Amended Complaint and Counterclaims;

WHEREAS, Count 1 of Apollo's Counterclaims ("Count I") seeks a Declaratory Judgment that United States Design Patent D542,141 ("141 Design Patent") is invalid and unenforceable;

WHEREAS, the '141 Design Patent has not been asserted in the action by Plaintiff;
WHEREAS, the parties wish to resolve any current dispute with respect to the '141
Design Patent;

NOW THEREFORE, the Parties stipulate and agree as follows:

1. Unilever, on behalf of itself and its affiliates, stipulates and agrees that it will not assert in this matter or otherwise the '141 Design Patent against Apollo based on Apollo's use of the bottle design that is the subject of the Amended Complaint.
2. Pursuant to Federal Rule of Civil Procedure 41(a)(1)(ii), Apollo voluntarily dismisses Count I of Apollo's Counterclaims.

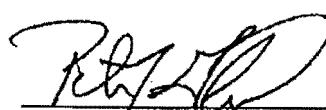
STIPULATED AND AGREED

Date: March 8, 2011



DUANE MORRIS LLP
Attorneys for Plaintiff
Gregory P. Gulia
Eric W. McCormick
Vanessa C. Hew
1540 Broadway
New York, New York 10036-4086
Telephone: (212) 692-1000
Facsimile: (212) 692-1020

Date: March 8, 2011

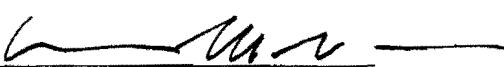


WINTHROP & WEINSTINE, P.A.
Attorneys for Defendants

Peter J. Gleekel (admitted *pro hac vice*)
Sharon D. Armstrong (admitted *pro hac vice*)
225 South Sixth Street, Suite 3500
Minneapolis, Minnesota 55402-4629
Telephone: (612) 604-6400
Facsimile: (612) 604-6800

Of Counsel for Defendants:
AMSTER, ROTHSTEIN & EBENSTEIN, LLP
Anthony F. Lo Cicero
Marc J. Jason
90 Park Avenue
New York, New York 10016
Telephone: (212) 336-8000
Facsimile: (212) 336-8001

SO ORDERED:


Honorable Lawrence M. McKenna
United States District Judge

Date: 3/10/11

5852372v1